addition cannot apply to work abandoned before even a contract is let. In this case only the minimum, as Mr. Arbenz says, has been done by the architect, and neither on my view of these rules nor upon any reasonable view of the facts is more than 2/3rds of 7½% on $25,000 justifiable, which would amount to $1,250 less $450 paid. Judgment for $800 and costs on claim.

Order on counterclaim that the plaintiff deliver up to the defendant all plans in his possession and which were in his possession up to 28th January, 1937.

*Order accordingly.*

Solicitors for plaintiff—*Salt & Co.*

Solicitors for defendant—*Goh Tiow Wan.*

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[ORIGINAL CIVIL JURISDICTION]

TERRELL, J.

March 18, 1938.

## *IN RE* TEO OON SOON deceased.

[SINGAPORE PROBATE No. 283 of 1937.]

*Administration—petition filed after expiration of six months—form—citations unnecessary—Probate and Administration Ordinance, ss. 4 (1), 54; R. S. C. O. 54 rr. 4 (1), 5 (b), 15*

Where an application for grant of Letters of Administration to the estate of a deceased person is made after the expiration of 6 months from the date of his death the provisions of Section 54 of the Probate & Administration Ordinance apply thereto. Although it is desirable that such an application should mention prior or equal rights there does not appear to be any statutory obligation to do so. Under that section the Court has an unfettered discretion and it is not bound to take into consideration any priorities such as would have to be considered under Section 17 of the Ordinance. Nor is it necessary to serve citations in accordance with the provisions of Order 54 rule 15 when the period of six months has expired and the application is made under section 54 of the Ordinance.

MOTION.

*De Mello* for the Applicant on the Motion.

*Aditan* for the Petitioner (Respondent).

*Cur. Ad. Vult.*

**TERRELL, J.**—The intestate Teo Oon Soon died in Singapore on the 11th October 1892, i.e. more than 45 years ago. He left him surviving two sons, Teo Hong Lim and Teo Hong Guan and several daughters. Teo Hong Lim died in 1905 intestate, leaving him surviving Teo Yee Swee and three daughters. Teo Hong Guan died on 2nd October 1929 intestate, leaving him surviving Teo Hee Wai, Teo Hee Hock, Teo Quee Neo and another daughter.

As it was thought that neither Teo Oon Soon nor his sons had any property, no representation of their estates was applied for. On the 10th of April 1937 an order was made in Originating Summons 143 of 1936 declaring the trusts of certain property void, and in the result the property subject to the trusts devolved beneficially on certain estates, of which the estate of Teo Oon Soon was one.

On the 3rd August 1937 Teo Hee Hock, Teo Hee Wai and Teo Quee Neo obtained letters of administration to the estate of their father Teo Hong Guan deceased, and on the 12th August 1937 they applied for letters of administration to the estate of their grand father Teo Oon Soon in these proceedings. They applied as the lawful grand children of Teo Oon Soon and as the representatives of Teo Hong Guan. The petition was granted on the 3rd September 1937, and the grant was subsequently extracted.

Teo Yee Swee, a son of Teo Hong Lim, now applies to the Court to have the grant in favour of Teo Hee Hock, Teo Hee Wai and Teo Quee Neo revoked, on the grounds set out in Mr. de Mello's Notice of Motion. Such grounds are, (a) that the Petition did not comply with the provisions of Order 54 Rules 4 (1) and 5 (b) or with Form 70 of the Rules of the Supreme Court, and (b) that the Petitioners had omitted to serve citations as required by section 4 (1) of the Probate and Administration Ordinance.

The latter objection clearly fails as section 4 (1) of the Ordinance only requires citations to be served on persons having a prior right, and at the most the applicant, as a grandson of Teo Oon Soon, can only claim an equal right with the petitioners who are also grandsons.

But in fact neither the applicant nor the petitioners were the next of kin of Teo Oon Soon at the time of his death. His next of kin were his sons and daughters, and the petitioners, as representatives of a son, had clearly a prior right to the applicant who was not next of kin at the date of Teo Oon Soon's death, and has never obtained representation to the estate of his father who was one of such next of kin. (See *Savage* v. *Blythe*, 2 Haggard Appendix p. 150).

No charge of maladministration has been made, and the objection of the applicant is purely technical. The Court will of course be careful to see that the rules of procedure are observed and petitioners should strictly comply with the forms so as to put the Court in possession of all the facts before letters of administration are granted. I find, however, that although the Petition was *prima facie* defective in that it did not set out the names of the persons who had an equal right, namely the surviving daughters of Teo Oon Soon who were represented before me, there can be no suggestion that any attempt was made to deceive the Court, since, before the petition was granted, Teo Hee Wai, one of the petitioners, filed an affidavit on the 31st August 1937 setting out the facts so far as they were then known to the petitioners.

It is also relevant to remember that more than six months had elapsed since the death of the deceased and accordingly the provisions of section 54 of the Probate and Administration Ordinance apply. Under this section the Court has an unfettered discretion, and it is not bound to take into consideration any priorities such as would have to be considered under section 17 of the Ordinance (see *In the Estate of Hameed Nachial decd.*, 1936 S.S.L.R. p. 99 at p. 101). Where six months have expired, although, as I have said, it is desirable that the Court should be put in possession of all the facts, there does not appear to be any statutory obligation to mention prior or equal rights, since Form 70 has special reference to Order 54 rule 3 which reads:—

> "Applications for probate or letters of administration shall be by petition in one of the forms in Form 70 in Schedule, A, with such variations as circumstances require."

The form is strictly applicable to petitions made before the expiration of the statutory six months. Where this period has expired, and the application is made under section 54 of the Ordinance, it is not unreasonable to conclude that the Form may be modified by omitting the prior or equal interests, without contravening the provisions of Order 54 rule 4 (1) of the Orders and Rules, and that it is also unnecessary to serve citations in accordance with the provisions of Order 54 rule 15.

Although, upon the hearing before me, the daughters of Teo Oon Soon supported the applicant, the issue to be decided is solely that between the applicant and the administrators.

In my opinion the application must fail for the reasons above mentioned, and should be dismissed with costs.

*Motion dismissed with costs.*

Solicitors for the Applicant—*A. de Mello.*

Solicitors for the Petitioner—*Aditan & Co.*

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**END OF STRAITS SETTLEMENTS OFFICIAL REPORTS.**